

CAUSE: 03-21-00278-CR

EX PARTE JOHN D FERRARA.

FILED IN  
IN THE 3<sup>rd</sup> COURT OF APPEALS  
AUSTIN, TEXAS  
12/29/2021 7:50:13 PM  
JEFFREY D. KYLE  
AUSTIN, TEXAS Clerk

**MOTION FOR CONTEMPT OF COURT, TO ISSUE CITATION, AND TO  
ISSUE SHOW CAUSE NOTICE**

TO THE HONORABLE JUDGE OF SAID COURT:

The Petitioner, John D Ferrara, motions this honorable court to issue a citation of process, and a show cause notice to determine if contempt of court, pursuant to Texas Government Code, Section 21.002, occurred when the Hays County Clerk's Office filed a supplement clerk's record because it was ordered by this honorable court as follows:

We abate this appeal and direct the trial court to either sign an order ruling on Ferrara's application or to hold a hearing to determine whether a final order was actually entered. The court is also instructed to prepare and file a certification of Ferrara's right of appeal from the order ruling on his pretrial application for writ of habeas corpus as required by the Texas Rules of Appellate Procedure. *See* Tex. R. App. P. 25.2(a)(2), 44.4. A supplemental clerk's record containing the trial court's certification shall be filed with this Court no later than December 13, 2021. *See id.* R. 25.2(d), 34.5(c)(2).

It is so ordered on November 19, 2021.

Before Chief Justice Byrne, Justices Triana and Kelly

Filed: November 19, 2021

Do Not Publish

## **A. BACKGROUND**

On or about December 10, 2021, a clerk with the Hays County Clerk's Office submitted a supplement clerk's record to the 3<sup>rd</sup> COA in Austin, Texas from Hays County. In the clerk's record, the documents provided that Judge Keasler signed an order of denial to the pre-indictment/motion to dismiss filing in the Hays County Court at Law 3.

		ACCEPTED 03-21-00278-CR 59919750 THIRD COURT OF APPEALS AUSTIN, TEXAS JPM YLE ERK
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Order Denying Application for Pre-Indictment Habeas Corpus Relief		4
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Appealed to the Court of Appeals for the Third District of Texas, At Austin, Texas		

The supplemental clerk's record only consisted of the order denying the request and a certification that the record submitted was the true and correct copy of the courts.

The order shows Judge Keasler denying the requests of the petition:

<p>CAUSE: 21-0498-C KYLE PD CASE # 2018-32792 WARRANT NO. F20-133JP2</p>	<p><b>FILED</b></p> <p>2021 AUG -2 PM 3:51</p> <p><i>Elaine H. Robinson</i> COUNTY CLERK HAYS COUNTY, TEXAS</p>
<p>THE STATE OF TEXAS  VS.</p>	<p>IN THE COUNTY COURT  JUDICIAL DISTRICT</p>
<p>JOHN D FERRARA</p>	<p>HAYS COUNTY, TEXAS</p>

**ORDER**

CAME this day the Defendant's Motion to Dismiss Prosecution/Application for Pre-Indictment Habeas Corpus Relief in this cause and the court, having evaluated the evidence, is of the opinion that the Motion is well taken, and should be, and is, in all things, GRANTED.

This cause is dismissed with prejudice.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

JUDGE PRESIDING

*Motion denied.*

*July 29, 2021*

*Michael E. Keasler, Judge*

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On or about December 10, 2021, a clerk with the Hays County Clerk's office makes certification to the authenticity of the records submitted:

**CLERK'S CERTIFICATE**

STATE OF TEXAS

IN THE COUNTY COURT

AT LAW #3

COUNTY OF HAYS

HAYS COUNTY, TEXAS

I, Elaine H. Cardenas, Clerk of the County Court at Law #3 in and for Hays County, Texas, do hereby certify that the above and foregoing are true and correct copies of original papers filed and of record in Civil Cause No. 21-0498-C styled:

The State of Texas

VS

John D. Ferrara

Given under my hand and seal of said Court at office in the City of San Marcos, on the 10<sup>th</sup> day of December, 2021.



Elaine H. Cardenas, Clerk  
Hays County, Texas

By: Melana Lodges  
Deputy

On or before August 2, 2021, Sandra Lopez, prior Court Administrator for the Hays County Court at Law provided an email where Judge Keasler signed an

order for a cause filed in the Hays County Court at Law 3. The order was for Cause 21-0498-C.

From: Sandra Lopez [sandra.lopez@co.hays.tx.us](mailto:sandra.lopez@co.hays.tx.us)  
Subject: Hays CCL1- State vs J.Ferrara  
Date: Aug 2, 2021 at 1:20:31 PM  
To: Afton Washbourne [Afton.Washbourne@traviscountytx.gov](mailto:Afton.Washbourne@traviscountytx.gov), Zachary Bidner [Zachary.Bidner@traviscountytx.gov](mailto:Zachary.Bidner@traviscountytx.gov), John Ferrara [jferrara0004@icloud.com](mailto:jferrara0004@icloud.com)  
Cc: Michael Macias [michael.macias@co.hays.tx.us](mailto:michael.macias@co.hays.tx.us)

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Good afternoon.

Attached you will find three (3) documents:

1. The waiver of arraignment signed by Judge Keasler.
2. The order denying the motion to dismiss filed in cause 21-0498-C.
3. The notice of announcement setting for 8/17/21.

All the best,

**Sandra S. Lopez**

Court Administrator  
Hays County Courts at Law  
712 S. Stagecoach Trail  
San Marcos, TX 78666

On or about June 13, 2021, Judge Updegrove recused himself from the case that the Travis County Attorney's Office (Pro Tem) filed within Hays County Court at Law 1.

CAUSE NO. 21-2259CR-1

FILED

2021 JUL 13 AM 10:38

FILED

2021 JUL 13 AM 10:38

THE STATE OF TEXAS

THIRD ADMINISTRATIVE JUDICIAL REGION

ORDER OF ASSIGNMENT BY THE PRESIDING JUDGE

*Elaine H. Anderson*  
COUNTY CLERK  
HAYS COUNTY, TEXAS

Pursuant to Section 74.056, Texas Government Code, the undersigned Presiding Judge assigns the **Honorable Michael Keasler**, Senior Justice of the Court of Criminal Appeals, to the **County Court at Law #1 of Hays County, Texas**.

The judge is assigned to preside in **Cause Number 21-2259CR1; State of Texas vs John David Ferrara** from this date until plenary power has expired or the undersigned Presiding Judge has terminated this assignment in writing, whichever occurs first. In addition, whenever the assigned judge is present in the county of assignment for a hearing in this cause the judge is also assigned and empowered to hear at that time any other matters that are presented for hearing in other cases.

IT IS ORDERED that the Clerk of the Court to which this assignment is made, if it is reasonable and practicable, and if time permits, give notice of this assignment to each attorney representing a party to a case that is to be heard in whole or in part by the assigned Judge.

Signed this 12th day of July, 2021

*Billy Ray Stubblefield*

Billy Ray Stubblefield, Presiding Judge  
Third Administrative Judicial Region

cc: Honorable Assigned Judge  
Honorable Requesting Judge  
District Clerk of the Assigned County

Assignment # 210330

On or about June 13, 2021, Judge Keasler is assigned to the Hays County Court at Law 1 (the court is the point of concern). In the assignment, Judge Keasler is authorized to “hear at the time any other matters that are presented for hearing in other cases.”

No hearings related to Mr. Ferrara's Habeas Corpus process were scheduled and nothing was scheduled in Court at Law 1 related to such separate cause. The decision was already rendered by Judge Rodriguez; however, she would not or did not sign any ordered releasing Mr. Ferrara from a bail bond for a charge that is not proper.

The assignment does not grant Judge Keasler the ability to sit on any court bench, but only the Hays County Court at Law 1. The matter presented above is a Hays County Court at Law 3 cause which was not present for any hearings. Judge Rodriguez already conducted a hearing as a visiting judge because Judge Thompson resigned her position as the Court at Law 3 Judge and Judge Rodriguez was assigned until a replacement had been made. Judge O'Brien became the sitting judge in the Hays County Court at Law 3.

As for the matter being heard by another judge. The matter was presented in front of multiple judges. It was first presented in District Court under Cause 20-2877 and in County Court at Law 3 under Cause 21-0498-C.

Civil, Family & Probate Case Records Search Results						
<a href="#">Skip to Main Content</a> <a href="#">Logout My Account</a> <a href="#">Search Menu</a> <a href="#">New Civil Search</a> <a href="#">Refine Search</a>						
Record Count: 3						
Search By: Party Exact Name: on Party Search Mode: Name Last Name: Ferrara First Name: John Case Status: All Sort By: Filed Date						
Case Number	Style	Filed/Location	Type/Status			
<a href="#">20-2877</a>	EX PARTE: JOHN FERRARA	12/22/2020 22nd District Court	Habeas Corpus - Other Civil (Before Indictment) Disposed			
<a href="#">21-0498-C</a>	The State of Texas VS. Ex Parte: John D Ferrara	04/14/2021 County Court at Law #3	Habeas Corpus - Other Civil Filed			
<a href="#">21-2336</a>	JOHN D FERRARA VS. J. SCOTT SELLERS, CITY MANAGER OF THE CITY OF KYLE, TEXAS	09/28/2021 22nd District Court	Other Civil Cases - District Filed			

The venue Judge Keasler is assigned is Hays County Court at Law 1:

Criminal Case Records Search Results					
Skip to Main Content Logout My Account Search Menu New Criminal Search Refine Search					
Record Count: 1					
Search By: Defendant Exact Name: on Party Search Mode: Name Last Name: Ferrara First Name: John Case Status: All Sort By: Filed Date					
Case Number	Citation Number	Defendant Info	Filed/Location	Type/Status	Charge(s)
<a href="#">21-2259CR-1</a>		Ferrara, John David 04/04/1981	06/25/2021 County Court at Law #1	Adult Misdemeanor Filed	HARASSMENT

Prior to December 10, 2021, the denial order signed by Judge Keasler was not filed into the Hays County Court at Law 3. It was not until Mr. Ferrara contacted Chris Perez, Court Coordinator of said court, did the order get filed into the venue.

From: John Ferrara <jferrara0004@icloud.com>  
Subject: Re: TRIAL COURTS CERTIFICATION & ORDER ON  
HABEAS CORPUS  
Date: Dec 10, 2021 at 11:18:31 AM  
To: Chris Perez <chris.perez@co.hays.tx.us>  
Cc: afton.washbourne@traviscountytexas.gov, Michael Macias  
<michael.macias@co.hays.tx.us>

Chris,

Per our conversation, the petition is filed in court at law 3, where no recusal has occurs

The states case is filed in 1, where a recusal occurred.

Since the abatement the state was served two subsequent documents.

The order from the judge, placed in the file is not associated with the recusal on the case the State filed. He signed an order for a different case he was not assigned

This means, the judge at 3 has to decide what to do, Judge Rodriguez was only there because Judge Thompson resigned. There was not a recusal from the cause in 3.

Sent from my iPhone

On Dec 10, 2021, at 11:00 AM, John Ferrara <jferrara0004@icloud.com> wrote:

Unfortunately that is not the right denial, as Judge Linda Rodriguez was the one to hear the cause and not this judge.

Sent from my iPhone

On Dec 10, 2021, at 10:54 AM, Chris Perez <[chris.perez@co.hays.tx.us](mailto:chris.perez@co.hays.tx.us)> wrote:

Good Morning,

Attached is a Memo from the Third Court Of Appeals in reference to Mr. Ferrara's civil case, 21-0498-C. It appears the Court Of Appeals is asking for the Trial Court's Certification Of Defendant's Right Of Appeal and Order on the Habeas Corpus. Forgive my ignorance, but I am aware of the Certification On Right To Appeal being completed anytime an individual has entered a plea to a criminal case. It appears a plea has not been entered in the criminal case, however, I have attached a blank copy of the Certification Of Right To Appeal in the event it does need to be completed and submitted as part of the record to the Third Court Of Appeals.

In reference to the Order on the Writ Of Habeas Corpus I have attached a copy of the signed Order and will forward to the Clerk so they can submit as part of the record to the Third Court Of Appeals.

Best,

Chris Perez  
Assistant Court Administrator  
Hays County Court at Law No. 2  
PH: [\(512\) 878-6577](tel:(512)878-6577)  
Fax: [\(512\) 393-7633](tel:(512)393-7633)

Chris Perez provides a blank “certification of appeal rights,” but does not have the Judge complete the document. It is not reasonable for Chris Perez to not understand the utilization and purpose of the document; especially, when he has had to received these documents in the past as part of his regular duties.

**Certification of Defendant's Right of Appeal**

No. \_\_\_\_\_

The State of Texas

In the \_\_\_\_\_ Court

v.

of

Defendant \_\_\_\_\_

County, Texas

**TRIAL COURT'S CERTIFICATION OF DEFENDANT'S RIGHT OF APPEAL\***

I certify that this criminal case:

- ☐ is not a plea-bargain case, and the defendant has the right of appeal;
- ☐ is a plea-bargain case, but matters were raised by written motion filed and ruled on before trial and not withdrawn or waived, and the defendant has the right of appeal;
- ☐ is a plea-bargain case, but the trial court has given permission to appeal, and the defendant has the right of appeal;
- ☐ is a plea-bargain case, and the defendant has NO right of appeal;
- ☐ the defendant has waived the right of appeal.

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Date Signed

I have received a copy of this certification. I have also been informed of my rights concerning any appeal of this criminal case, including any right to file a *pro se* petition for discretionary review pursuant to Rule 68 of the Texas Rules of Appellate Procedure. I have been admonished that my attorney must mail a copy of the court of appeals' judgment and opinion to my last known address and that I have only 30 days in which to file a *pro se* petition for discretionary review in the Court of Criminal Appeals. TEX. R. APP. P. 68.2, 68.3. I acknowledge that, if I wish to appeal this case and if I am entitled to do so, it is my duty to inform my appellate attorney, by written communication, of any change in the address at which I am currently living or any change in my current prison unit. I understand that, because of appellate deadlines, if I fail to timely inform my appellate attorney of any change in my address, I may lose the opportunity to file a *pro se* petition for discretionary review.

As indicated in a news publishing, Chris Perez has worked for the Hays County Court at Law, long enough to understand the utilization and purpose of the certification of rights to appeal. This is basic judicial paperwork processing.

"Perez's employee reviews also reiterate what his coworkers think of him. He was evaluated by two different judges and Perez had a near-perfect history in the CCL. In his latest review, which was done for 2019, he received a total of 128 points, the highest possible score."

<https://haysfreepress.com/2021/04/09/firing-fiasco-turns-court-at-law-judges-against-each-other>

In the phone conversation identified in the email string above to Chris Perez, Mr. Perez informed Mr. Ferrara that he was a new employee and learning his job, yet the candor displayed only raises suspicion to such statement when a public concern news article contradicts such a statement.

Further, it is not Mr. Perez's decision on what to do or not do when ordered by a superior court or a Judge. This matter, appears to be a schemed attempt by individuals to harm Mr. Ferrara's liberties and freedoms to benefit the person who made the initial complaint by misuse of his office or employment. The document clearly states "I certify that this criminal case is not a plea-bargain case, and the defendant has the right of appeal." The court already instructed the trial court on what to do and it is not for Chris Perez to overrule a panel of highly educated judges.

Because the certification was not placed in the file, as ordered, and because Chris Perez seemed to have filed an order from a judge not assigned to the venue during a time a hearing was not scheduled or anticipated, it is believe that Chris Perez, in conjunction with Sandra Lopez and the undersigned Clerk (at a minimum) worked together to suppress Mr. Ferrara's rights. Essentially, it is believed that Sandra Lopez departure was planned and that she would have the order signed but not file it to allow Chris Perez a "mistake," in filing, but the "mistake," is impossible to make in process; therefore, it is believed the actions of

all involved are intentional and or knowingly, as the burden required in a few of the references Texas Penal Codes.

It should also be noted that Zachary Bidner kept trying to file papers into the Hays County Court at Law 1 with Law 3 on them. The Clerk's Office also attempted to change the venue of Judge Keasler's cause from Court 1 to Court 3 (on the public portal and communication to the court administrator on the topic, is available).

### **B. BURDEN**

The Texas Supreme Court [has] held that the elements that must be prove[n] in a *constructive criminal contempt* conviction are the following:

1. A reasonably specific order
2. A violation of the order
3. The willful intent to violate the order

*Reference Ex parte Chambers*, [898 S.W.2d 257, 259](#) (Tex. 1995).

### **C. RELEVANT FACTS**

The facts of concern are straight forward. This Court ordered the Hays County Clerk's Office to communicate with the Hays County Court at Law 3 Judge to sign an order deciding on the petition before this court, or to hold a hearing to determine if a final order was actually entered. This Court, further

ordered the County Clerk's Office to obtain a and provide the trial court's certification of appeal rights.

This Court received records which do not contain the ordered record's. This Court received a signed order from a Visiting Judge assigned to another venue.

The Hays County Court at Law Court Coordinator, did not communicate with his elected Judiciary prior to deciding the business of the Court he is employed. This is evident by the petitioner not being provided a signed form represented the petitioners right to appeal. It is further compounded when the Court Coordinator also provides an order from a Judge not assigned to the cause or venue (where no hearings took place) and used such document as authentic and true to the purpose.

#### **D. SUBJECTED TO HARM**

The petitioner first filed a petition for relief in the Hays County District Court in December of 2020. Over a year later, and three venue changes the process has yet to formally conclude. The petitioner is on a bail bond for an allegation that many have identified to be improper. The bail bond is not tied to the Hays County Court at Law 1 matter that Judge Keasler is assigned. The petitioner lost a first line family member in November of 2021. Said member resided out of state and the petitioner, bound by a bail bond for an allegation admitted to be invalid, was unable to travel to visit before, during, or after this family members departure.

In an attempt to communicate with the Court Coordinator about the matter, said Coordinator took it upon himself to provide statements which lack candor, and have caused irreversible harm to process upon the petitioner.

#### **E. REQUEST**

The petitioner requests this Court to consider the merits of the concerns raised in this motion and to either conduct its own process surrounding the order presented to the Hays County Clerk's Office or assign it to a District Court in Hays County for process and consideration. Being that no order is formally filed in any venue in Hays County, as it relates to this matter, the petitioner can only file the motion with the Court where the order was issued.

If this Court elects to conduct process in either venue, the petitioner asks the court to issue and serve this motion, a citation of process, and notice of hearing to show cause on Chris Perez, Assistant Court Administrator for the Hays County Court at Law 3 and any other public servant in the process of the order referenced in this motion which may also be involved.

The petitioner also asks the Court to assign a prosecutor to assume the petitioners role in a motion of contempt of court process.

#### **F. PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, the Petitioner prays this Court will issue process as identified in the "request," section of this motion or present some other lawful method

in which the Court may receive the trial court's certification of appeal rights and properly signed order so this cause may be properly reviewed by this Court.

DATED: December 29, 2021

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JF', written over a horizontal line.

John Ferrara

Pro Se

122 Baywell Drive

San Antonio, Texas 78227

## **CERTIFICATE OF SERVICE**

As required by Texas Rule of Appellate Procedure 6.3 and 9.5(b), (d), (e), I certify that I have served this document on all other parties—which are listed below—on December 29, 2021, by e-file services:

Travis County Pro Tem representing the State of Texas through Hays County District Attorney recusal order: Marie Galindo

315 West 11<sup>th</sup> Street  
Suite 300  
Austin, Texas 78701  
(512) 854-9415  
Mailing Address  
PO Box 1748  
Austin, Texas 78767



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John D Ferrara  
Pro Se, Appellant

### **Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 60384756

Status as of 1/4/2022 8:05 AM CST

#### Case Contacts

<b>Name</b>	<b>BarNumber</b>	<b>Email</b>	<b>TimestampSubmitted</b>	<b>Status</b>
Marie Galindo		Marie.Galindo@traviscountytexas.gov	12/29/2021 7:50:13 PM	SENT
Marie Galindo		TCAppeal@traviscountytexas.gov	12/29/2021 7:50:13 PM	SENT